

The Hon. Daniel Andrews MP
The Hon. Jaclyn Symes MLC
The Hon. Natalie Suleyman MP
The Hon. Gabrielle Williams MP
The Hon. Lizzie Blandthorn MLC
The Hon. Anthony Carbines MP

27 July 2023

Dear Premier, Attorney-General and Ministers

Kids thrive when they are supported, not criminalised: no new powers for Victoria Police

As a coalition of over 40 Aboriginal and Torres Strait Islander, health, legal, social, community services and youth advocacy organisations from across Victoria,¹ we are writing to urge you to ensure that children are properly supported to thrive when the age of criminal responsibility is soon raised. Ending the harmful criminalisation of young children **must** include ending harmful interactions with police. Criminalising children is never the answer.

In announcing your intention to introduce legislation to raise the age of criminal responsibility to 12, you rightly acknowledged that the younger a child is when they are first sentenced, the more likely they are to re-offend as adults. You acknowledged that helping young people who show harmful behaviours to turn their lives around with rehabilitative support services is not only good for them, but is good for the community in the long term.

We are therefore deeply concerned by recent calls by Victoria Police for new powers, including powers to arrest, search or detain children under the age of criminal responsibility, once the age is raised.

Throughout this reform process, our collective focus must be on the futures of Victorian children, and creating the support networks that will enable them to thrive in the community. This can only be achieved through a health, education and wellbeing-based model for responding to children who are engaging in harmful behaviours. Police cannot be relied upon to deliver this model, but health practitioners, educators, and youth and family workers can.

Evidence shows that any engagement with the criminal legal system causes harm to a child, including first contact with police – which can involve arrest, detention, the use of force, the use of handcuffs and other restraints, and being subjected to interrogation, searches and forensic sampling. These by-products of early criminal legal contact for a young child can be highly distressing and lead to trauma, victimisation, stigmatisation and negative peer contagion. Exposing children to interactions with police is criminogenic and reinforces the very behaviours sought to be prevented through raising the age of criminal responsibility.

Evidence and experience show that when Victoria Police hold discretionary powers, they frequently exercise them in ways that discriminate against Aboriginal and Torres Strait Islander people and other racialised communities. In May 2023, Victoria Police Commissioner Patton appeared before the Yoorrook Justice Commission and acknowledged that policing of Aboriginal people today is still influenced by systemic and structural racism. In 2020–21, Aboriginal young people were almost six

¹ See https://www.fclc.org.au/smart_justice_for_young_people.

times more likely to be processed by police as alleged offenders than non-Aboriginal young people. Handing new discretionary powers to an organisation affected by systemic racism carries an unacceptable risk.

It would also undermine the intended aims behind raising the age of criminal responsibility. Raising the age is an acknowledgment that children as young as 10 – children who are still in primary school – should never be criminalised for what are fundamentally issues of health and wellbeing. Allowing police to continue arresting and detaining young people under the age of criminal responsibility will not lead to genuine decriminalisation of children. When Attorney-General Symes appeared before the Yoorrook Justice Commission and reflected on the decriminalisation of public drunkenness, she observed that other states which had retained residual powers for police had not achieved the change intended by those legislative reforms. These learnings apply equally to this context.

Instead of creating new police powers, we urge you to invest in a model of care that ensures first responders are not police, and are instead skilled in health, mental health, youth support or other such critical services. Given the small number of children concerned, we know such an approach is possible. An alternative response model must be designed in close collaboration with Aboriginal communities, advocates for children in residential homes, and other cultural communities whose children are currently over-policed and over-imprisoned. It must also connect clearly to the related strategies and reform initiatives already underway.²

Premier, Attorney-General and Ministers, we call on you to make a public commitment not to give police any additional powers over young children who are under the age of criminal responsibility.

We also reiterate our call to further raise Victoria's age of criminal responsibility to 14, with no exceptions. Criminalising children is never the answer to behaviours resulting from complex, unmet needs. Diverting children away from the criminal legal system, including police contact, has better outcomes for children, their families and whole communities. Raising the age of criminal responsibility to 14 is a critical step toward ensuring better futures for Victorian children, but this reform will only work if skilled health, education and child and family wellbeing practitioners lead the response, not police.

Yours faithfully

Smart Justice for Young People

Victorian Aboriginal Legal Service
Koorie Youth Council
WestJustice
Human Rights Law Centre
Centre for Multicultural Youth
Federation of Community Legal Services
Jesuit Social Services
Centre for Excellence in Child and Family Welfare
Youth Affairs Council Victoria
Youth Support + Advocacy Service
Inner Melbourne Community Legal
Police Accountability Project
Youthlaw

² Such as the Department of Justice's [Youth Crime Prevention Strategy](#); [VicHealth's 2023-2032 Strategy](#); the Department of Health's [youth mental health reforms](#); the Department of Education and Training's [Early Childhood Reform Plan](#); the Department of Families, Fairness and Housing's [Roadmap for Reform: Strong Families, Safe Children](#); the whole-of-government [Family Violence Reform Rolling Action Plan 2020-2023](#); and Victoria's Anti-Racism Strategy.



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